Filed 2/24/09 P. v. Kropp CA2/1

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE, Plaintiff and Respondent, v. MATTHEW DAVID KROPP, Defendant and Appellant.	B205870 (Los Angeles County Super. Ct. No. TA092612)

APPEAL from a judgment of the Superior Court of Los Angeles County, John Joseph Cheroske and Arthur M. Lew, Judges. Affirmed.

Linda L. Gordon, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Susan D. Martynec, Supervising Deputy Attorney General, and Joseph P. Lee, Deputy Attorney General, for Plaintiff and Respondent.

Matthew Kropp appeals from the judgment entered following a jury trial in which he was convicted of robbery and grand theft. In a bifurcated bench trial, he was found to have suffered prior felony convictions, including one under the "Three Strikes" law. Defendant was sentenced to state prison for a total of 15 years and contends that the trial court improperly denied his *Marsden*[1] motion. We affirm.

BACKGROUND

On the afternoon of September 1, 2007, defendant approached Alejandro Davila in the parking lot of a Smart & Final store in Lynwood as Davila was going back to his car carrying three cases of beer in his shopping cart. Defendant asked Davila for his gang affiliation. Davila responded that he did not belong to a gang. Defendant replied, "'Well, this is Lynwood something gang.'" Defendant next asked for a beer and Davila declined, telling defendant that the beer was for a birthday party. Defendant responded that it was a "'something day'" for himself and then took a case of beer from the shopping cart. Davila did not resist because he was afraid of retaliation. He later reported the incident to the police and identified defendant from a six-pack photographic lineup.

The defense was alibi.

DISCUSSION

Defendant contends that he was not given an adequate opportunity to explain his dissatisfaction with counsel, as required by *Marsden* and its progeny. We disagree.

At arraignment, defendant brought a *Marsden* motion and the following colloquy ensued:

"The Court: Everybody in law enforcement except the bailiff has left the courtroom. [¶] Mr. Kropp, I want [you to] tell me what it is that you are complaining of with [defense counsel] Ms. Sullivan.

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[1] *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*).

"The Defendant: I think she's too busy for my case. She indicates she's going to come and see me and she doesn't. And I just feel I can fight my case better myself. I don't want her. I'd rather fight my case myself instead of letting her fight my case.

"The Court: Now you're talking about something else altogether. What I'm asking you is what are the grounds for relieving Ms. Sullivan. The grounds are not things like she doesn't come and see me. I just don't feel good. I don't know what to do. I'd rather not have her as a lawyer. [¶] You have to be specific. You have to give us specific reasons to relieve Ms. Sullivan. So that's your—that's your burden. That's your job. You said you wanted this motion. So here you are.

"The Defendant: Oh. We're not seeing eye to eye.

"The Court: Okay. [¶] Is that it then?

"The Defendant: Yes.

"The Court: That's fine. [¶] It doesn't even require a response from you, Ms. Sullivan. There's absolutely no grounds for the *Marsden*. There is no case I have ever read that not seeing eye to [eye] is sufficient grounds . . . to relieve the attorney."

"*Marsden* and its progeny require that when a defendant complains about the adequacy of appointed counsel, the trial court permit the defendant to articulate his causes of dissatisfaction and, if any of them suggest ineffective assistance, to conduct an inquiry sufficient to ascertain whether counsel is in fact rendering effective assistance. [Citations.] If the defendant states facts sufficient to raise a question about counsel's effectiveness, the court must question counsel as necessary to ascertain their veracity. [Citations.]" (*People v. Eastman* (2007) 146 Cal.App.4th 688, 695.) The court is also "obligated to make a record that [a defendant's complaint about counsel] had been adequately aired and considered. [Citation.]" (*Id.* at p. 696.) "'[T]he court must allow the defendant to express any specific complaints about the attorney and the attorney to respond accordingly.' [Citation.]" (*Ibid.*)

Contrary to defendant's contention, the trial court adequately fulfilled its obligations under *Marsden*. The court inquired about the basis for defendant's position that he did not see "eye to eye" with counsel, but defendant had nothing more to say. Nor

has any authority been provided that would require the court to continue to press a defendant to provide specific reasons for his dissatisfaction with counsel once he has clearly refused to do so. Under these circumstances, defendant's *Marsden* motion was properly denied.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

MALLANO, P. J.

We concur:

ROTHSCHILD, J.

WEISBERG, J.*

* Retired Judge of the Los Angeles Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.